

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

RICHARD A. MADRID,

Plaintiff(s),

vs.

METRO POLICE DEPARTMENT, et al.,

Defendant(s).

Case No. 2:16-cv-02995-APG-NJK

**REPORT AND  
RECOMMENDATION**

On January 9, 2017, the Court screened Plaintiff's complaint as required by 28 U.S.C. § 1915. Docket No. 4. The Court found Plaintiff's complaint deficient because, *inter alia*, it attempted to state a claim for relief under Title 42, United States Code, Section 1983, but failed to state which civil rights Plaintiff alleged were violated. *Id.* at 2-3. The Court ordered that, to the extent Plaintiff believed he could cure the identified defect, he must file an amended complaint by February 8, 2017. *Id.* at 4. On February 7, 2017, in response to a filing that appeared to address its prior screening order, the Court extended the deadline for Plaintiff to file an amended complaint to March 9, 2017. Docket No. 7. The Court further warned Plaintiff that "[f]ailure to comply will result in a recommendation of dismissal of this action without prejudice." *Id.* at 2.

Plaintiff did not file an amended complaint by that extended deadline. *See* Docket. Instead, on February 22, 2017, Plaintiff filed a motion to incarcerate Defendant Villareal, which the Court denied because, among other issues, no operative complaint exists in this action. Docket Nos. 9, 10. Additionally, on March 8, 2017, Plaintiff filed a motion to extend time to request subpoenas and file motions in this action, even though the Court had already made clear that this action will not proceed

1 without an operative complaint. Docket No. 11.

2 The extended deadline to file an amended complaint has now expired. Despite receiving two  
3 opportunities to file an amended complaint in this case and warnings that a recommendation of  
4 dismissal would occur absent the filing of an amended complaint, Plaintiff has failed to do so.  
5 Accordingly, the undersigned **RECOMMENDS** that this case be **DISMISSED** without prejudice.

6  
7 IT IS SO ORDERED.

8 Dated: March 16, 2017.

9  
10   
NANCY J. KOPPE  
United States Magistrate Judge

11 **NOTICE**

12 Pursuant to Local Rule IB 3-2, any objection to this Report and Recommendation must be  
13 in writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has  
14 held that the courts of appeal may determine that an appeal has been waived due to the failure to file  
15 objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also  
16 held that (1) failure to file objections within the specified time and (2) failure to properly address and  
17 brief the objectionable issues waives the right to appeal the District Court's order and/or appeal  
18 factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir.  
19 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).